

Message Text

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ACTION IO-10

INFO OCT-01 ISO-00 AF-06 ARA-10 EA-10 EUR-12 NEA-09

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TO SECSTATE WASHDC 9805

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E.O. 11652: N/A

TAGS: SGEN, SHUM

SUBJECT: 50TH ECOSOC-ITALIAN DRAFT RESOLUTION ON CAPITAL
PUNISHMENT

1. ITALIAN MISOFF, FRANCESCO GUARIGLIA, CALLED MEETING OF WEO
SOCIAL COMITE REPS APRIL 7 TO OBTAIN THEIR RESPONSE TO ITALIAN
DRAFT RES ON CAPITAL PUNISHMENT(TEXT BELOW. THIS RES GOES
SLIGHTLY BEYOND RES 1745(LIV) BY REQUESTING RESPONSIBLE UN OR-
GANIZATIONS TO DRAW UP CRITERIA FOR CLASSIFYING MEMBER STATES
ACCORDING TO THEIR POLICIES ON CAPITAL PUNISHMENT AND TO STIMU-
LATE THE CRRYING OUT OF STUDIES IN COUNTRIES RETAINING CAPITAL
PUNISHMENT WHERE NEW PENAL LEGISLATION IS BEING ELABORATED.

2. DISCUSSION REVEALED THAT IN TWO YEARS SINCE ITALY INITIATED
RES 1745 ATTITUDES HAVE HARDENED ON THIS ISSUE. ALTHOUGH UK
COSPONSORED RES 1745, TERROR BOMBINGS HAVE SO AROUSED PUBLIC
OPINION IN UK THAT HMG WOULD NOT COSPONSOR AGAIN AND WOULD PRE-
FER TO LET SUBJECT DIE. FRG REP REPORTED THAT ALTHOUGHT CAPITAL
PUNISHMENT WAS ABOLISHED BY 1949 CONSTITUTION SOME PEOPLE WISH
TO REINSTATE IT AND NATIONAL DEBATE ON SUBJECT IS UNDER WAY.
FRG REP SUGGESTED TO ITALIAN REP WHO WAS LOOKING FOR GUIDANCE
THAT HE SIMPLIFY HIS RES REDUCING OPERATIVE PART OF TWO PARAS
AND NOT GO MUCH FARTHER TO REAFFIRM WHAT WAS DONE TWO YEARS
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AGO. NORWAY AND DENMARK THOUGHT THEY WOULD SUPPORT BUT NOT

COSPONSOR.

3. US REP REITERATED WELL-KNOW FACT THAT US IS FEDERAL REBUB-
LIC IN WHICH ONLY 13 STATES OUT OF 50 ARE ABOLITIONIST. DID
SUGGEST, HOWEVER, THAT DRAFT RES SHOULD INCLUDE REFERENCE,
PERHAPS IN PREAMBLE, TO FIFTH INTERNATIONAL CONGRESS ON CRIME
PREVENTION TO TAKE PLACE IN TORONTO SEPT 1-15, 1975.
ALSO SUGGESTED STRIKING ERRONEOUS REFERENCE TO "MAJORITY OF
MEMBER STATES...FAVOURING THE VENTUAL ABOLITION OF THIS
PUNISHMENT."

4. MISSION ASSUME US DEL SHOULD ABSTAIN ON THIS RES BQT RE-
QUESTS CONFIRMATION

QUOTE

C A P I T A L P U N I S H M E N T

DRAFT RESOLUTION

THE ECONOMIC AND SOCIAL COUNCIL,
RECALLING ARTICLE 3 OF THE UNIVERSAL DECLARATION OF HUMAN
RIGHTS WHICH AFFIRMS EVERONE'S RIGHT TO LIFE AND ARTICLE
6 OF THE CONVENANT ON CIVIL AND POLITICAL RIGHTS, WHICH
ALSO AFFIRMS THE RIGHT TO LIFE AS INHERENT TO EVERY HUMAN
BEING,

RECALLING ALSO IST RESOLUTION 1745 (LIV) WHICH CONFIRMS THE
CONTINUING INTEREST OF THE UNITED NATIONS IN THE STUDY
OF THE QUESTION OF CAPITAL PUNISHMENT TO BE MADE ON THE BASIS
OF UPDATED AND ANALYTICAL REPORTS OF THE SECRETARY GENERAL
AT FIVE-YEAR INTERVALS,
HAVING CONSIDERED THE REPORT PRESENTED BY THE SECRETARY
GENERAL UNDER THE AFOREMENTIONED RESOLUTION (E/5616),

SHARING THE VIEWS EXPRESSED IN THE REPORT THAT : A) SINCE
THE ISSUANCE OF THE UNITED NATIONS REPORTS ON CAPITAL PUNISHMENT
OF 1962 AND 1967 A MAJORING OF MEMBER STATES HAVE GRADUALLY
SHIFTED FROM A CONCERN ABOUT THE ISSUE OF THE DEATH PENALTY
TO ONE FAVOURING THE VENTUAL ABOLITION OF THIS PUNISHMENT, B) THE
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TOTAL NUMBER OF OFFENCES FOR WHICH THE DEATH PENALTY CAN
BE IMPOSED HAS BEENPROGRESSIVELY DECLINING IN MANY PARTS
OF THE WORLD,

NOTING WITH SATISFACTION THAT IN THE PERIOD 1969-1973
FURTHER PROGRESS HAS BEEN MADE IN SOME COUNTRIES BY ABOLISHING
CAPITAL PUNISHMENT EITHER TOTALLY OR FOR ORDINARY CRIMES,
OR BY SUSPENDING IT, OR BY RESTRICTING THE NUMBER OF

CAPITAL OFFENCES.

NOTHING WITH INTEREST THAT CERTAIN NUMBER OF RETENTIONIST COUNTRIES PROVIDED INFORMATION ON SENTENCING TO AND EXECUTION OF THE DEATH PENALTY, THUS COOPERATING FULLY TO THE STUDY UNDERTAKEN BY THE SECRETARY GENERAL, AND THAT THE SENTENCES OF A CONSIDERABLE NUMBER OF PERSONS CONVICTED TO DEATH HAVE BEEN COMMUTED TO LIFE IMPRISONMENT OR THAT PARDON WAS GRANTED,

NOTING ALSO WITH INTEREST THAT IN SOME COUNTRIES STUDIES CONCERNING CAPITAL PUNISHMENT ARE BEING UNDERTAKEN WITHIN THE CONTEXT OF THE DRAFTING OF NEW PENAL LEGISLATION,

1. REAFFIRMS THAT THE MAIN OBJECTIVE TO BE PURSUED IN THE FIELD OF CAPITAL PUNISHMENT, AS ESTABLISHED IN ECONOMIC AND SOCIAL COUNCIL RESOLUTION 1574 (2) IS THAT OF PROGRESSIVELY RESTRICTING THE NUMBER OF OFFENCES FOR WHICH (#) A VIEW TO THE DESIRABILITY OF ABOLISHING THIS PUNISHMENT IN ALL COUNTRIES;

2. REQUESTS THE COMMITTEE ON CRIME PREVENTION AND CONTROL TO STUDY WITH THE CO-OPERATION OF THE UNITED NATIONS SOCIAL DEFENCE RESEARCH INSTITUTE AND OTHER RESEARCH CENTRES:
A) THE CRITERIA WHICH COULD BEST BE USED FOR A CLASSIFICATION OF MEMBER STATES REFLECTING NOT ONLY THEIR POSITION AT A GIVEN MOMENT AS ABOLITIONIST COUNTRIES BY LAW OR BY CUSTOM OR RETENTIONIST ONES FOR ALL OR FOR SOME CRIMES, BUT ALSO THE PROGRESS MADE BY THE LATTER TOWARDS THE RESTRICTION OF THE NUMBER OF CAPITAL OFFENCES, SO THAT THE ATTITUDES OF MEMBER STATES IN THE FIELD OF CAPITAL PUNISHMENT MAY BE FULLY REFLECTED, AND B) TO STUDY WAYS AND MEANS TO STIMULATE THE CARRYING STUDIES CONCERNING CAPITAL PUNISHMENT SPECIALLY IN RETENTIONIST COUNTRIES WHERE NEW PENAL LEGISLATION IS BEING
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ELABORATED;

3. INVITES MEMBER STATES WHICH HAVE NOT YET DONE SO TO REPLY TO THE QUESTIONNAIRE PROVIDED BY THE SECRETARY GENERAL FOR THE PREPARATION OF THE AFOREMENTIONED REPORT, SO THAT THE 1980 REPORT MAY PROVIDE A GLOBAL PICTURE OF THE USE AND TRENDS OF CAPITAL PUNISHMENT;

4. REQUESTS THE SECRETARY GENERAL TO PROCEED WITH THE STUDY ON PRACTICES AND STATUTORY RULES WHICH MAY GOVERN THE RIGHT OF A PERSON SENTENCED TO CAPITAL PUNISHMENT TO PETITION FOR PARDON, COMMUTATION OR REPRIEVE AND TO PRESENT A REPORT ON THESE QUESTIONS AT THE LATEST AT THE LXVI SESSION OF THE ECONOMIC AND SOCIAL COUNCIL TOGETHER WITH THE BASIC 1980 REPORT ON CAPITAL PUNISHMENT.

(#) THE DEATH PENALTY MIGHT BE IMPOSED, WITH

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NOTE BY OCT: # AS RECEIVED. CORRECTION TO FOLLOW.

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